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STATE ELECTION COMMISSION, PUNJAB

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NOTIFICATION

The 13th March, 2025

No. SEC/SAP/ET/2025/389.- In pursuance of the provisions of Section 93 of the Punjab State Election Commission Act, 1994, the Election Commission hereby notifies the order of the Election Tribunal for general information.

(Here print the enclosed order)

**IN THE COURT OF SACHIN PATHAK PCS, SUB DIVISIONAL MAGISTRATE-
CUM-ELECTION TRIBUNAL FOR PANCHAYAT ELECTIONS, RUPNAGAR**

File Number: Election Petition/2024/09

Date of Institution: 27-11-2024

Date of Decision: 19-02-2025

1. Jagmohan Singh s/o Sher Singh aged 30 years r/o Village Rangilpur, Tehsil and District Rupnagar
Petitioner

Vs.

1. Sunil Kumar s/o Harbans Lal, r/o Village Rangilpur, booth number 138, Tehsil and District Rupnagar
2. Kulwinder Singh s/o Amrik Singh r/o Village Rangilpur, booth number 138, Tehsil and District Rupnagar.
3. Sukhwinder Singh s/o Surinder Singh r/o Village Chhoti Gandhon, Tehsil and District Rupnagar
4. Tarsem Lal s/o Harbans Lal r/o Village Rangilpur, booth numbe 138, Tehsil and District Rupnagar
5. Returning Officer, Surjit Singh, SDO, Drainage-cum-Mining, Rupnagar Phone number 94640-38528
6. Assistant Returning Officer, Harkawal Singh, J.E. Sirhind Canal, Rupnagar, Phone number 79869-07056
7. Presiding Officer, Election personnel, booth number 138, village Rangilpur, Tehsil and District Rupnagar

Respondents

PRAYER IN THE ELECTION PETITION:

The petitioner prayed, under section 79 of Punjab State Election Commission Act 1994, to declare election of respondent number 1 Sunil Kumar's election as Sarpanch during Gram Panchayat Elections 2024 as null and void and declare petitioner Jagmohan Singh as duly elected to the post of Sarpanch for village Rangilpur, Block Rupnagar, Tehsil and District Rupnagar.

PRESENT AT THE TIME OF JUDGEMENT:

1. Advocate Kamal Singh for petitioner
2. Proxy Advocate Gurmanjot Singh for Advocate Dhirinder Kamal Saldi for respondent number 1
3. Returning Officer present in person

BRIEF FACTS OF THE PRESENT CASE:

Vide notification no. S.O.67/P.A.19/1994/S.73/2024 issued by the Department of Local Government, Government of Punjab, the undersigned was duly authorized to hear the election petitions connected with the election of Gram Panchayats held on 15.10.2024 falling under Rupnagar Sub Division Jurisdiction and decide the same as election tribunal according to the law hence this election petition was heard and decided by the Election Tribunal.

The brief facts of this case are as follows:

The elections for the post of sarpanch of the gram panchayat Rangilpur, Block Rupnagar, Tehsil and District Rupnagar was conducted on 15.10.2024 as per the schedule announced by the State Election Commission, Punjab to conduct the gram panchayat election 2024 throughout the State of Punjab. Sunil Kumar respondent no.1 was declared elected Sarpanch Gram Panchayat in this election. The Petitioner Jagmohan Singh moved this election petition under section 79 of Punjab State Election Commission Act 1994 claiming that in view of the order passed by Hon'ble Punjab and Haryana High Court, Chandigarh in CWP no. 26745 dated 14.10.2024 which upheld the rejection of nomination papers of respondent number 1 by the Returning Officer for Cluster 17, SDO Mining, Rupnagar the respondent no.1 was not eligible to contest this election in first place. Therefore, a prayer was made under section 79 of Punjab State Election Commission Act 1994 that election of respondent number 1 may kindly be declared null and void in light of Honourable High Court Orders in CWP no. 26745 of 2024 and the petitioner may be declared as duly elected as a Sarpanch Gram Panchayat Village Rangilpur.

The respondents were summoned through the established procedure and came present before this court. The petitioner was represented by Advocate Kamal Singh Saini and the respondent no.1 was represented by Advocate Dhirender Kamal Saldi during the trial. The government official respondents appeared in person.

The respondent no.1 submitted the detailed reply of the election petition and in his reply, he vehemently denied the claims of the petitioner.

CONTENTS OF THE PETITION AND REPLY OF THE RESPONDENT ARE AS FOLLOWS:

The petitioner submitted (summary instead of point-by-point submissions)-

1. that according to schedule announced by Punjab State Election Commission, the date for filling nominations was from 27.09.2024 to 04.10.2024, the date of filing objections and scrutiny was 05.10.2024, the date of withdrawal of candidature and subsequent allotment of symbols was 07.10.2024 and the date of polling and announcement of results was 15.10.2024.
2. that the nomination paper of respondent no.1 were rejected by Returning officer (respondent number 5) on 05.10.2024 according to procedure established by law.
3. that the symbol allotted to petitioner was 'tree', to respondent no.2 was 'mike/microphone', to respondent no.3 was 'table fan', to respondent no.4 was 'bucket'.
4. that respondent no.1 approached Punjab and Haryana High Court in CWP no. 26444 of 2024 which was titled Sunil Kumar V/s State of Punjab and others.
5. that the Hon'ble Punjab and Haryana High Court in decision dated 10.10.2024 in the above CWP no. 26444 of 2024 pronounced an interim order that allowed respondent no.1 to file nomination papers and directed Returning officer to accept his nomination. The operative part of the order is mentioned
"We are of the opinion that if the petitioner is not granted an interim relief, he shall suffer an irreparable loss and injury as he has already established a prima facie case and balance of convenience is in his favour. Consequently, the petitioner is permitted to participate in the election process subject to final outcome of this writ petition."
6. that in the pursuance of above orders, the Returning Officer accepted his nomination papers and allotted him election symbol 'tractor'.
7. that the Honourable Punjab and Haryana High Court in order dated 14.10.2024 in CWP no. 26745 of 2024 vacated the interim relief granted by the Hon'ble Court

on 10.10.2024 in CWP no. 26444 of 2024 and dismissed the writ petition number 26444 of 2024 and upheld the rejection of nomination papers of respondent no. 1 by Returning Officer (respondent number 5). The operative paragraph number 42 of the judgement of Honourable High Court in CWP number 26475 of 2024 is hereby mentioned-

"In aftermath, this Court finds no merit in the writ petition(s) (supra) and with the observation(s) aforesaid, the same are dismissed. The interim order(s) as passed by the Co-ordinate Bench of this Court, in the respective writ petition(s), are vacated."

8. that respondent number 5 (the Returning Officer-cum-SDO Mining) wilfully colluded with respondent number 1 (Sunil Kumar) and allowed him to contest elections on the next day i.e. 15.10.2024 despite explicit honourable High Court orders in CWP number 26745 of 2024 which upheld rejection of nomination papers of respondent number 1. That, respondent number 5, in blatant violation of rule of law, allowed respondent number 1 to contest elections and ultimately emerging winner of Sarpanch Elections for village Rangilpur which was illegal ab-initio.
9. that the petitioner informed respondent number 5 (Returning Officer-cum-SDO Mining) and respondent number 6 (Assistant Returning Officer-cum-JE Sirhind Canal) on the same day of judgement by Honourable High Court (14.10.2024) to disallow respondent number 1 from contesting elections, and that respondent number 5 and respondent number 6 expressed their inability to do anything in this matter and rather instructed petitioner to approach polling party allotted to the booth instead.
10. that the petitioner apprised respondent number 7 of the cancellation of candidature of respondent number 1 by Honourable High Court in CWP no. 26745 of 2024 on the day of elections (15.10.2024) at 7 AM but respondent no. 7 refused to take any action.
11. that the respondent number 1 in connivance with respondent numbers 5 to 7 contested the Panchayat Elections despite being in-eligible on the basis of Honourable High Court orders dated 14.10.2024 in CWP no. 26745 of 2024 thus amounting to "murder of democracy and electoral process".
12. that, even during counting of the votes, the cancellation of candidature of respondent number 1 was not considered by counting officials of polling party thus amounting to violation of law and democratic process and that respondent number 1 was declared winner by 315 votes in blatant violation of rule of law and democratic process.
13. that respondents' number 5 to 7 deliberately violated the ethos of electoral process which is tantamount to collusive corruption and an intention of malice.
14. that on account of the above stated facts, the election of respondent number 1 to the post of Sarpanch be declared null and void and the petitioners' election petition be accepted and he be declared duly elected as Sarpanch of village Rangilpur, Block Rupnagar, Tehsil and District Rupnagar.

In response, respondent number 1 submitted (summary instead of point-by-point submissions) -

1. That the election petition is not maintainable and is liable to be dismissed on the ground that it has not been presented in accordance with the terms of

the mandatory provision of Section 76 of the Punjab State Election Commission Act, 1994 (herein after referred to as The Act only). The Section 76 of the Act is reproduced as under: -

76. Presentation of petition. -

(1) An election petition may be presented on one or more of the grounds specified in sub-section (1) of section 89 to the Election Tribunal by any candidate to such election or by any elector within a period of forty five days from the date of election of the returned candidate or if there are more than one returned candidates at the election and there are different dates of their election, then the later of these dates shall be taken into account for this purpose.

(2) Every election petition shall be accompanied by as many copies thereof, as there are respondents mentioned in the petition and every such copy shall be attested by the petitioner under his own signatures to be a true copy of the petition."

2. That the election petition is liable to be dismissed on the ground that it has not been filed in violation of the provisions of Section 78 of the Act.

The section 78 is reproduced below for ready reference:

78. Contents of petition. (1) As election petition shall-

(a) contain a concise statement of the material facts on which the petitioner relies,

(b) set forth full particulars of any corrupt practice that the petitioner alleges including a statement as possible, of the names of the parties alleged to have committed such corrupt practice or practices and the date and place of the commission of such practice; and

(c) be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908, (Central Act 5 of 1908) for the verification of pleadings:

Provided that where the petitioner alleges any corrupt practice, the petition shall be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the relevant particulars thereof.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

3. That the election petition presented through an Advocate is liable to be dismissed under Section 80 of the Act being in violation of Section 76 of the Act. Section 80(1) reads as under:

"Section 80(1)-The election tribunal shall dismiss an election petition which does not comply with the provisions of Section 76 or Section 77 or Section 103.

Explanation. An order of the election tribunal dismissing an election petition under this sub section, shall be deemed to be in order to under Section 87."

4. That the interim order dated 5-12-2024 passed by this Hon'ble Tribunal on the Election Petition itself at the time shows that it was presented through counsel and not by the election petitioner himself in person.
5. That as per requirement of Section 76 (2) of the Act every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition. The requirement of Section 76(2) of the Act is mandatory.
6. That the copy of the petition supplied to the respondent no.1, has not been attested by the election petitioner as required by section 76(2) of the Act.
7. That a perusal of the election petition reveals that the verification as appended with the election petition is in violation of Section 78 (1) (c) of the Act and is liable to be dismissed on this score alone.
8. That a specific application has been filed along with the election petition praying for permission to file the election petition through an Advocate. Therefore, there is no further requirement of any proof that the election petition has been presented by an Advocate and not by the petitioner himself and therefore, is liable to be dismissed being in violation of the mandatory provision of Section 76(1) of the Act.
9. That it is a matter of record that the election petitioner has not presented the election petition in person before this Hon'ble Tribunal, therefore the same has to be dismissed at threshold on account of being in violation of Section 76 (1) of the Act.
10. That since the election petition has not been presented by the petitioner himself, therefore, it is in violation of Section 76(1) of the Act and should be dismissed by this Hon'ble Tribunal in view of Section 80(1) of the Act.
11. That as per law laid down by the Hon'ble Punjab and Haryana High Court in the case titled "Gurlal Singh Vs. Presiding Officer, Election Tribunal" reported as 2010(5) RCR (Civil) 474 it has been held "*that the election petition having been presented by the Advocate is in violation of Section 76(1) of the Act and the election petition deserves to be dismissed in view of Section 80 of the Act.*"
12. That the instant petition is liable to be rejected and dismissed being in violation of the statutory provisions of Section 76(1), 76(2), 78(1)(c) of the Act and therefore Section 80(1) which is mandatory and is to be complied strictly in accordance with the law settled by the Hon'ble High Court.

13. That in view of the submissions made above, it is, therefore, most respectfully prayed that the election petition may kindly be dismissed with costs in the interest of justice.

In Rebuttal to the reply of respondent no.1 the petitioner submitted as under during the course of the trial (summary instead of point by point):

1. That the election petition is presented by the petitioner and the same has been duly signed by the petitioner and verified. The Hon'ble Punjab and Haryana High Court, Chandigarh clearly stated in the case titled as "**Kamaljit Kaur versus Jasvir Kaur etc.**" 2010 (1) LAR 458 (P&H) that defect in the verification is not fatal to the election petition and petitioner cannot be thrown out solely on this ground.

2. That the election petition has been duly signed and verified by the petitioner and thereafter presented before the election tribunal as law laid down by the Hon'ble Punjab and Haryana High Court in case titled "**Beant Singh etc. versus Dilbag Singh & others**" 2012 (2) LAR 372 (P&H)

"contention/objection that petition is through advocate and the verification of the petition was not as per provision of civil procedure court-held, arguments are self-contradictory- on the one hand we are expecting elected panchs to stay away from counsel while presenting of petition and on the other hand we are trying to stick to technicalities by saying that the petition should be properly verified as to which have been verified as to which of the paras are true to the best of knowledge and belief of the petitioner."

3. That it is made clear to this Hon'ble tribunal that a common person cannot know the technicalities and procedure of the election petition in totality, however the present petition has been duly verified and signed by the petitioner. The intention of the legislature is very clear that advocate himself cannot alone file the petition before the tribunal but in this petition the petition has been verified, signed and presented by the petitioner himself.

4. That the respondent number 1 filed the Civil Writ Petition 26444/2024 titled as "**Sunil Kumar vs. State of Punjab and ors.**" before the Hon'ble Punjab and Haryana High Court and in the said writ petition on dated 10.10.2024 the Hon'ble court has mentioned in page no.4 that

"We are the opinion that if the petitioner is not granted an interim relief, he shall suffer an irreparable loss and injury as he has already established a prima facie case and balance of convenience in his favour. Consequently, the petitioner is permitted to participate in the election process subject to final outcome of this writ petition."

And thereafter on 14.10.2024 the writ petition no. CWP/26444/2024 was dismissed by Honourable High Court along with the writ petition no. 26745/2024 and further in the said order in para no.42 it is clearly stated that

"In aftermath, this court finds no merit in the writ petition (s) (supra) and with the observation (s) aforesaid, the same are dismissed. The interim order(s) as passed by the co-ordinate bench of this court, in the respective writ petition(s), are vacated."

So, in the light of the above-mentioned orders of the Honorable Punjab and Haryana High Court, the nomination papers of the applicant Sunil Kumar was rejected.

RETURNING OFFICER'S (RESPONDENT NUMBER 5) TESTIMONY IN COURT:

Returning Officer Surjit Singh, SDO Mining, Rupnagar testified on oath in Court that-

1. That he is posted in the capacity of SDO Drainage-cum-Mining, Rupnagar with Government of Punjab.
2. That during the Punjab Panchayati Raj Elections 2024, booth number 138, village Rangilpur was under his jurisdiction as returning officer.
3. That Sunil Kumar s/o Harbans Lal r/o village Rangilpur's nomination papers were rejected by him in accordance with the law.
4. That Sunil Kumar s/o Harbans Lal approached Honourable High Court in CWP 26444 of 2024 in which the Hon'ble Court had allowed Sunil Kumar, on an interim basis, to file nomination papers on 10.10.2024
5. That the Hon'ble Punjab and Haryana High Court in CWP 26745 of 2024 dated 14.10.2024 had dismissed the CWP 26444 of 2024 and vacated the interim order passed by the co-ordinate bench effectively upholding the rejection of nomination papers of Sunil Kumar by returning officer.
6. That the above orders were not brought to his or any election official's notice by Sunil Kumar s/o Harbans Lal and that he contested elections in violation of Honourable High Court orders.
7. That the BDPO had not given the NOC to Sunil Kumar s/o Harbans Lal to contest Panchayat Elections.
8. That Sunil Kumar s/o Harbans Lal violated the Honorable High Court orders with scant respect for rule of law.

PERTINENT ISSUES IN THIS ELECTION PETITION:

After perusing carefully, the contents of petition, the reply by respondent no. 1 and the rebuttal filed by petitioner, testimony of returning officer as well as multiple rounds of oral submissions, the following issues are hereby framed:

1. **Issues pertaining to respondent no.1**
 - (a) **Whether respondent no.1 was eligible to contest panchayat election on the morning of 15.10.2024 i.e. the polling day in light of Hon'ble High Court orders? [THE CARDINAL QUESTION OF THIS TRIAL]**
 - (b) **Whether respondent no.1 intentionally defied the orders of Hon'ble High Court in CWP no.26745 of 2024?**
2. **Issues pertaining to respondent no.5 Returning Officer-cum SDO Mining Rupnagar (herein after also referred to as RO) and respondent no.6 Assistant Returning Officer-cum-JE Sirhind Canal, Rupnagar (herein after also referred to as ARO).**
 - (a) **Whether RO and ARO were made aware of the orders of Hon'ble High Court in CWP 26745 of 2024 on or before the polling date, that is, 15.10.2024 by the petitioner?**
 - (b) **Whether respondent no.5 (RO) and respondent no.6 (ARO) colluded with respondent no.1 to allow respondent no.1 to contest the election despite the order of Hon'ble High Court declaring respondent no.1 ineligible for the same?**
3. **Issues pertaining to respondent no.7**

Whether the respondent no.7 is legally empowered enough under the provisions of Punjab State Election Commission Act, 1994 and Punjab State Election Commission Rules, 1994 to stop any contesting candidate in poll fray from contesting the election on poll day?

4. Issues pertaining to the petitioner:

- (a) Whether the petition is presented in the format as enunciated in Punjab State Election commission Act 1994?
- (b) Whether the non-presentation of petition the format as enunciated above is fatal error amounting to dismissal of petition?
- (c) Whether the remedy demanded by the petitioner is sound in law or not? If yes, what is the remedy/relief given?

PRONOUNCEMENTS OF THE TRIBUNAL ON EACH OF THE ISSUES:

1. (a) Whether the respondent no.1 was eligible to contest panchayat election on the morning of 15.10.2024 i.e. the polling day in light of Hon'ble High Court orders?

From a careful reading of Honourable Punjab And Haryana High Court orders in CWP 26745 of 2024 dated 14.10.2024 which clubbed the ongoing 888 Civil writ petitions pertaining to Panchayat Elections 2024 which mentioned at page number 77 at serial number 683 the case under consideration “Sunil Kumar vs State of Punjab” (CWP 26444 of 2024) and its operative paragraph 42 which says-

“In aftermath, this court finds no merit in the writ petition (s) (supra) and with the observation (s) aforesaid, the same are dismissed. The interim order(s) as passed by the co-ordinate bench of this court, in the respective writ petition(s), are vacated.”,

Makes it abundantly clear that **Sunil Kumar was ineligible to contest Panchayat Elections on the polling day after promulgation of the above orders of Honourable High Court.**

Therefore, this issue is unequivocally decided in favour of petitioner and against the respondent.

1. (b) Whether respondent no. 1 intentionally defied the orders of Honourable High Court in CWP 26745 of 2024?

From the testimony of Returning Officer (respondent no. 5) and non-rebuttal of Sunil Kumar as to the material facts stated by Returning Officer in his testimony, it is abundantly clear that Sunil Kumar (respondent no.1) did not convey the orders of honourable High Court in CWP 26745 of 2024 to the Returning Officer or any other election official. Even after the judgement of Honourable High Court was in public domain after being uploaded on website www.phhc.gov.in on 16.10.2024 (a day after polling day) till the conclusion of Election Petition Trial, Sunil Kumar refused to honour the verdict of Honourable High Court and refused to step down as Sarpanch which not only amounts to contempt of Honourable High Court but also concealment of material information (offence under section 45 of Bhartiya Nyaya Sanhita), making a false statement in connection with an election (section 175 of Bhartiya Nyaya Sanhita), cheating to induce people to vote for him (section 318 of Bhartiya Nyaya Sanhita) along with section 108 clause (6) of Punjab State Election Commission Act 1994 which reads

“.....The publication by a candidate or his agent or by any other person with the consent of a candidate or his election agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, in relation to the candidature, or withdrawal, of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.....”

DSP sub division Rupnagar is therefore directed by this tribunal to initiate a preliminary enquiry and register an F.I.R. under above mentioned sections within 2 weeks from the date of receipt of this judgement failing which this shall be reported to Honourable Registrar General, Punjab and Haryana High Court, Chandigarh and State Election Commission, Punjab.

Therefore, this issue is also unequivocally decided in favour of petitioner and against the respondent.

2. (a) Whether RO and ARO were made aware of the orders of Hon'ble High Court in CWP 26745 of 2024 on or before the polling date, that is, 15.10.2024 by the petitioner?

The petitioner could not bring on record any written letter or representation handed over to RO/ARO on the eve of elections (14.10.2024) and morning of polling day (15.10.2024) regarding Honourable High Court judgement in CWP 26745 of 2024 which upheld the rejection of nomination papers of respondent number 1 by respondent number 5. Therefore, it cannot be proven beyond doubt that the petitioner had indeed, handed over the copy of the judgement to RO and ARO.

Therefore, this issue is decided against the petitioner and in favour of respondent number 5 and 6.

2 (b). Whether respondent no.5 (Returning officer- hereafter also referred to as RO) and respondent no.6 (Assistant Returning officer- hereafter also referred to as ARO) colluded with respondent no.1 to allow respondent no.1 to contest the election despite the order of Hon'ble High Court declaring respondent no.1 ineligible for the same?

In the absence of any hard evidence brought on record as in issue 2(a) above, it is very difficult to prove beyond reasonable doubt any intent of malice and active collusion. Furthermore, the official copy of the orders was uploaded on website www.phhc.gov.in on 16.10.2024, a day after the poll day (15.10.2024) according to oral submission of respondent number 5 (R.O.), respondent number 6 (A.R.O.) and petitioner before the tribunal.

However, mere oral submissions cannot account for their inability to implement and honour the orders of Honourable High Court in CWP 26745 of 2024. The returning officer's pivotal role in Panchayat elections is correctly enunciated in section 18 of Punjab State Election Commission Act 1994:

"It shall be the general duty of the Returning Officer at any election to do all such acts and things, as may be necessary for effectually conducting the election in the manner provided under this Act and the rules or orders made there under"

Therefore, Executive Magistrate, 1st class-cum-Tehsildar Rupnagar is directed to initiate enquiry upon issue 2(b) into allegations against RO and ARO and submit report to the Controlling Officer-cum-SDM Rupnagar within 2 weeks on issue 2(b) of this election petition failing which it shall be reported to Financial Commissioner (Revenue), Punjab and State Election Commission, Punjab.

3. Whether the respondent no.7 is legally empowered enough under the provisions of Punjab State Election Commission Act, 1994 and Punjab State Election Commission Rules, 1994 to stop any contesting candidate in poll fray from contesting the election on poll day?

Section 21 of Punjab State Election Commission Act 1994 defines the duty of presiding officer as follows:

"It shall be the general duty of the Presiding Officer at a polling station to keep order there at and to see that the poll is fairly taken."

This section clearly puts the onus on presiding officer to maintain order at the polling station and see to it that poll process is not vitiated by any means. However, the primary question being asked is whether the presiding officer (herein after referred to as PRO) is legally empowered to prevent a candidate from contesting elections itself. If conservative interpretation of section 21 of Punjab State Election Commission Act 1994 is made, then the role of PRO is confined to just maintaining order (see to it that every voter has necessary ID cards, voters are standing in queue, principle of secret ballot is not being violated, presiding officer diary is correctly and timely filled and any law and order issue is timely reported to guarding police). Furthermore, sections 38, 39 and 41 of Punjab State Election Commission Act 1994 make it abundantly clear that the power to reject nomination vests with Returning Officer alone. Therefore, it is manifestly unfair to incriminate PRO when he/she does not have the legal authority to reject a candidate's nomination or prevent a candidate from contesting elections.

Furthermore, nothing was brought on record during the trial by petitioner about any written representation given by him to the PRO on the morning of poll day.

Therefore, issue number 3 is decided against the petitioner and in favour of respondent number 7.

4. (a) Whether the petition is presented in the format as enunciated in Punjab State Election commission Act 1994?

The fundamental argument raised by respondent number 1 was that Election Petition was presented by the Advocate Kamal Singh Saini and not by the petitioner Jagmohan Singh himself which is a violation of section 76 of Punjab State Election Commission Act 1994. The counsel for respondent number 1 also brought on record a case law titled "**G.V. Sreerama Reddy and Another vs Returning Officer and others 2009(3) RCR(civil) 937**" in **Honourable Supreme Court** which resulted in the dismissal of election petition on account of the petition being presented by Advocate and not the petitioner personally.

However, a careful reading by the tribunal of the judgement titled "**G.V. Sreerama Reddy and Another vs Returning Officer and others 2009(3) RCR(Civil) 937**" in the Honourable Supreme Court revealed the fact that the said petition was dismissed NOT JUST on account of it being filed by the Advocate and not the petitioner, but also since the petition was filed BEYOND the stipulated timeline and the delay could NOT be condoned by applying the limitation act. This argument is therefore misleading.

A careful reading of section 76, 77 and 78 of Punjab State Election Commission Act 1994 stipulates the following checklist which shall be looked into by Election Tribunal:

Sr. No.	Essential Criteria	Whether Observed in current Election Petition or not
1.	Election Petition (herein after referred to as EP) should be presented within 45 days from the date of election of returned candidate. (section 76(1))	Yes, the date of election was 15-10-2024 and the petition was presented 42 days later on 27-11-2024.
2.	Election Petition should be accompanied by as many copies as there are respondents (section 76(2))	Yes, 7 copies of the election petition were provided.
3.	Every copy to be attested by the petitioner under his own signatures (section 76(2))	Yes, signature of petitioner Jagmohan Singh found on last page of every copy of the election petition. However, a phrase in Punjabi (ਰਾਹੀਂ ਵਕੀਲ) is used which means "through Advocate"

4.	Since the petitioner has sought relief under section 79 to declare him to be lawfully elected candidate, all other contesting candidates for Sarpanch election as well as the returned candidate should have been made respondents (section 77(a))	Yes, Returned Candidate made respondent number 1 and other candidates made respondent number 2, 3 and 4
5.	Any other candidate against whom the allegation of corrupt practice is made should be mentioned in the election petition (section 77(b))	Returned candidate happens to be respondent number 1 – allegation made against violation of Honourable High Court orders in CWP 26745 of 2024 that upheld rejection of nomination papers of respondent number 1 and not against any corrupt practice during the course of elections.
6.	Election petition should contain a concise statement of the material facts on which the petitioner relies (section 78(1)(a))	Yes, materials facts mentioned in the election petition from para number 1 to 12 and allegations as well as relief sought are both mentioned from para 13 to 24
7.	Election Petition should set forth full particulars of any corrupt practice that the petitioner alleges, including a statement as possible, of the names of the parties alleged to have committed such corrupt practice or practices and the date and place of the commission of such practice (section 78(1)(b))	Not applicable as mentioned in criteria 5. and its explanation above.
8.	be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908, for the verification of pleadings (section 78(1)(c))	Order 6, Rule 15 of the Code of Civil Procedure (CPC) requires that pleadings be verified. This means that the person who wrote the pleading must verify it, and provide an affidavit in support. The affidavit in support of plea has been signed, verified and submitted by petitioner.

From the tabular analysis of the presentation of election petition as explained above, it is abundantly clear that no serious defect in the presentation of election petition is observed. The phrase “through advocate” does not over-ride the fact that the petition was duly signed and verified by petitioner’s own signatures along with a supporting affidavit.

Therefore, issue number 4(a) is decided in favour of petitioner and against the respondent number 1.

4(b). Whether the non-presentation of petition the format as enunciated above is fatal error amounting to dismissal of petition?

Since the petition is largely presented in the format as enunciated in section 76, 77 and section 78 of Punjab State Election Commission Act 1994, the Tribunal finds no merit in issue 4(b). However, even if there is any minor defect in the presentation of election petition, the same shall not amount to a fatal error resulting in dismissal of election petition. The same matter has been settled by Hon’ble Punjab and Haryana High Court in case titled “**Beant Singh and others vs. Dilbagh Singh and others**” dated 17.11.2011.

"This Court is of the view that the arguments regarding presentation of petition by the petitioner and not by the counsel and then finding fault in the verification are self-contradictory. The ground realities cannot be lost sight of. On the one hand we are expecting elected Panches to remain away from counsel while presentation of a petition and on the other hand we are trying to stick to technicalities by saying that the petition should be properly verified as to which of the paras are true to the best of knowledge and belief of the petitioners and which have been verified as per advice of the lawyer."

Therefore, this issue is decided in favour of petitioner and against the respondent number 1.

4(c) Whether the remedy demanded by the petitioner is sound in law or not? If yes, what is the remedy/relief given?

The remedy demanded by the petitioner is under section 79 of Punjab State Election Commission Act 1994 which says

"A petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claim further declaration that the himself or any other candidate may be declared duly elected."

The claim/plea is rooted in the judgement of Honourable Punjab and Haryana High Court in CWP number 26745 of 2024.

A remedy/relief that is claimed under section 79 can be provided by the Election Tribunal under section 87(c) of Punjab State Election Commission Act 1994. Section 87 of the said act says-

"At the conclusion of the trial of an election petition, the Election Tribunal may make an order for-

- (a) dismissing the election petition; or*
- (b) declaring the election of all or any of the returned candidates to be void; or*
- (c) declaring the election of all or any of the returned candidates to be void and the petitioner or any other candidate to have been duly elected."*

From pronouncements on the issues as framed above especially issue number 1(a), it is abundantly clear that Sunil Kumar son of Harbans Lal, resident of Village Rangilpur, Block Rupnagar and respondent number 1 in this case was NOT ELIGIBLE to contest elections on the morning of 15.10.2024 (the polling day) on account of judgment passed by Honourable Punjab and Haryana High Court in CWP number 26745 of 2024 on 14.10.2024 dismissing his CWP 26444 of 2024 and upholding rejection of his candidature by returning officer and also vacating the interim orders passed by coordinate bench. Despite explicit Hon'ble High Court orders against his candidature, not only did Sunil Kumar contest the elections which is a CONTEMPT OF HONOURABLE HIGH COURT but also continued to remain Sarpanch, refusing to step down even after the orders were in public domain and communicated to him at the beginning of the trial which amounts to murder of democracy and fraud on the people. On account of his candidature being void in compliance of honourable High Court orders, all the votes polled in his favour on 15.10.2024 are also hereby declared void and the candidate with second highest votes, that is, the petitioner is hereby declared as lawfully elected.

Therefore, using the powers conferred under section 87(c) of Punjab State Election Commission Act 1994, election petition is allowed by this election tribunal and relief under section 79 is granted to the petitioner. DSP police sub division Rupnagar is directed by this tribunal to initiate a preliminary enquiry and register an F.I.R. against respondent no.1 under sections concealment of material information (section 45 of Bhartiya Nyaya Sanhita), making a false statement in connection with an election (section 175 of Bhartiya Nyaya Sanhita), cheating to induce people to vote for him (section 318 of Bhartiya Nyaya Sanhita) along with section 108 clause (6) of Punjab State Election Commission Act 1994 within 2 weeks from the date of receipt of this judgement failing which this shall be reported to Honourable Registrar General, Punjab and Haryana High Court, Chandigarh, Honourable Principal Secretary, Department of Home Affairs, Government of Punjab and Honourable State Election Commission Punjab. Executive Magistrate-first class-cum-Tehsildar Rupnagar is directed to initiate enquiry against SDO Mining-cum-Returning Officer for Rangilpur Village and JE Sirhind Canal-cum-Assistant Returning Officer for Rangilpur village and determine whether it was genuine lack of communication of orders of honourable High Court to both these officers or actual malice at play that allowed Sunil Kumar to contest elections on the morning of 15.10.2024 in violation of Honourable High Court orders in CWP 26745 of 2024 dated 14.10.2024.

DDPO Rupnagar is directed to initiate enquiry into the office of BDPO Rupnagar for failing to obtain and communicate such important verdict of Honourable High Court pertaining to Panchayati Raj and Rural Development Department in time before the polling day (15.10.2024). The report shall be submitted to the tribunal within 2 weeks failing which dereliction of duty of BDPO shall be reported to Honourable State Election Commission, Punjab and Financial Commissioner (Rural Development and Panchayati Raj), Punjab.

BDPO Rupnagar is directed to administer oath to the duly elected Sarpanch, that is, the petitioner, declared so under section 87(c) of Punjab State Election Commission Act 1994 by this tribunal within a week from the receipt of this judgement and ensure compliance of election tribunal orders failing which dereliction of duty shall be reported to Financial Commissioner (Rural Development and Panchayati Raj), Punjab.

Finally, using the powers conferred under section 93 of Punjab State Election Commission Act 1994, the State Election Commission is requested to cause publication of these orders in the official Gazette of Punjab.

Sd/-

Election Tribunal, Panchayat Elections, Block Rupnagar-cum-Sub Divisional Magistrate, Rupnagar.